

## REMARKS

Reconsideration of this application, in view of the following remarks, is respectfully requested.

## **I. Status Of The Claims**

Claims 16-19 have been amended to delete “Jambu oleoresin” and “Zanthoxylum peperitum” from the list of tingling sensates recited therein.

No new matter has been added by these amendments.

Claims 16-31 are pending in this application and are at issue.

## II. Telephone Conversations with Examiner Kim

Applicants thank Examiner Kim for the courtesy shown during the telephone conversations with applicants' representative Jonathan Mitchell, Ph.D., conducted on June 11, 2004 and September 9, 2004

During the initial telephone conversation of June 11th, Examiner Kim indicated that the rejection over Kupper (WO 97/02273) would be overcome if “Jambu oleoresin” and “Zanthoxylum peperitum” were deleted from the list of tingling sensates set forth in each of the independent claims (claims 16-19).

On June 15, 2004, applicants' representative left a message on Examiner Kim's voice mail, authorizing her to delete the terms "Jambu oleoresin" and "Zanthoxylum peperitum" from claims 16-19 by Examiner's Amendment. However, because the message left by applicants' representative was not received in time by Examiner Kim, the present Office Action (dated June 16, 2004) was mailed.

Applicants' representative spoke with Examiner Kim again on September 9, 2004 to confirm that the proposed amendments to claims 16-19 would place the application in condition for allowance. Examiner Kim recommended that Applicants file a response taking her prior comments into account.

### III. Rejection under 35 U.S.C. § 103

Claims 16-31 have been rejected as obvious over Kupper (WO 97/02273). The Examiner contends that Kupper teaches a method of providing an enhanced sensory signal to users of healthcare products, by incorporating a sensate composition comprising a mixture of 3-1-methoxypropane-1,2-diol, vanillin alkyl ethers, jambu or pepper oleoresin, and a carrier. She concedes that the instant claims differ from Kupper because Kupper refers to jambu and pepper oleoresin as warming sensates, not tingling sensates. However, the Examiner asserts that the tingling sensation is an inherent property of jambu and pepper oleoresin, and that Kupper “strongly suggests” the use of jambu or pepper oleoresin for achieving improved perception of warmth. The Examiner concludes that one of ordinary skill in the art would have been motivated to incorporate such a sensate composition into a healthcare product or food product, in order to improve the perceived sensation.

In order to expedite prosecution of this application, claims 16-19 have been amended to delete “Jambu oleoresin” and “Zanthoxylum peperitum” from the list of tingling sensates.

Kupper does not teach or suggest the formulation recited in the present claims, and, therefore, fails to render them obvious. Accordingly, applicants respectfully request that the rejection be withdrawn.

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: September 15, 2004

Respectfully submitted,

By \_\_\_\_\_

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